

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8738 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KOTHARIA KELAVANI MANDAL

Versus

STATE OF GUJARAT & OTHERS

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Appearance:

MR HJ Nanavati, Advocate for Petitioner

MR Prajapati for Mr MC Bhatt, Advocate for Respondent No. 1

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 22/03/96

ORAL JUDGMENT

The petitioner Kotharia Kelavani Mandal Trust had applied for registration of a Secondary School at Village Dhokalwa, Taluka Chotilla, District Surendranagar. The say of the petitioner is that inspite of the fact that the petitioner-Trust meets with all the requirements, the respondent-Gujarat Secondary Education Board rejected the application by order dated 23.1.1991 on the ground that the Trust has no sufficient funds and secondly the Trust is not having building as per requirement. The Trust

gave an undertaking to the authority on 24.5.1991 that the Trust will complete construction of the building within a period of one year. The Gram Panchayat has also agreed to give Kharaba land to the petitioner-Trust for playground for the students. The petitioner also satisfied with respect to the sufficiency of funds. However, the petitioner's appeal filed before the State Government remained pending and as such the petitioner had approached this Court by way of filing writ petition which was registered as Special Civil Application No.5418/93. This Court, by order dated 23.7.1993 directed the appellate authority to pass appropriate order on or before 16.8.1993. The further say of the petitioner is that he has been told that the appellate authority had decided the appeal on 19.7.1993 prior to the directions given by this Court. It is submitted that copy of the order dated 19.7.1993 has still not been served on him. The respondent-State Government has also not placed the said order dated 19.7.1993 on record.

2. Mr Prajapati, learned Advocate appearing for the respondent-Board submits that there is no such order in their file. The petitioner has also made certain allegations of malafides against the then Hon'ble Minister for Education.

3. Considering the fact that the order dated 19.7.1993, if at all exists, has not seen the light of the day. The respondent has also not made any statement with respect to the existence of such an order. Keeping in view the facts of the case and more particularly the time lag, it will be appropriate to direct that a fresh order is passed by the competent authority after hearing the petitioner. It is made clear that if at all the order dated 19.7.1993 exists, the same shall stand set aside.

4. In view of the aforesaid, this Special Civil Application is allowed. Respondent No.1 is directed to dispose off the appeal filed by the petitioner against the decision of this Court after hearing the petitioner within a period of two months from the date of receipt of the writ. Rule made absolute accordingly.

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